

**Statement of
Michael Nedd, Assistant Director
Minerals, Realty and Resource Protection
Bureau of Land Management
before the
House Committee on Natural Resources
Subcommittee on National Parks, Forests and Public Lands
H.R. 816, Orchard Detention Basin Flood Control Act
October 23, 2007**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on H.R. 816, the Orchard Detention Basin Flood Control Act. H.R. 816 would release approximately 65 acres of public land within the Sunrise Mountain Instant Study Area (ISA) [now referred to as a wilderness study area under Section 603 of the Federal Land Policy and Management Act (FLPMA)]. The Sunrise Mountain ISA is located on the east side of the Las Vegas Valley and within proximity to Las Vegas. H.R. 816 would also legislate a right-of-way on the lands that are to be released for the construction of the Orchard Detention Basin Project. The BLM supports H.R. 816, but would like to work with the Committee on certain amendments to the bill.

The Orchard Basin Detention Project would provide much-needed flood control for the eastern portion of the Las Vegas Valley. The project is intended to protect the fast-growing Las Vegas area from flooding due in part to stormwater drainage. The BLM understands the needs of this growing area and supports efforts to protect both the expansion of the city and the natural surroundings of the Las Vegas area.

The Sunrise Mountain ISA includes 10,240 acres of BLM-managed land. The ISA lacks wilderness characteristics; it is in a clearly unnatural condition and does not offer outstanding opportunities for solitude or primitive recreation. Sections of the ISA are affected by numerous off-highway-vehicle routes and illegal trash dumping, and there are remnants of a copper mining operation from the early 1900s. Furthermore, a portion of the ISA's western section is adjacent to expanding land development that increases the likelihood of further disturbances and unauthorized uses of the lands. Releasing this area from wilderness study status would provide the BLM with additional management tools for managing human activities, such as mechanically removing litter and fencing off areas to protect sensitive resource values.

The BLM recommends that H.R. 816 be amended to release the entire ISA from interim management of its wilderness values so that the lands can be managed for other multiple uses and under existing conservation agreements for the area. The BLM also recommends the deletion of section 2(d), which provides for a right-of-way within the area proposed for release. A right-of-way for the Orchard Detention Basin project can be administratively processed under the procedures set forth under FLPMA. This would allow for full public participation in the process. The BLM would be happy to work with Clark County in this effort.

Thank you for the opportunity to testify on H.R. 816. We look forward to working with the sponsors and the Committee on this piece of legislation.

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H.R. 1311, the Nevada Cancer Institute Expansion Act
October 23, 2007**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on H.R. 1311, the Nevada Cancer Institute Expansion Act. H.R. 1311 would convey without consideration approximately 80 acres of public lands (the “Alta-Hualapai” site) to the City of Las Vegas, Nevada, for the development of a cancer treatment facility, an adjoining park, a flood control project, a water pumping facility, and other commercial projects. While the BLM supports the goals of H.R. 1311, we cannot support the bill unless there are major clarifications and modifications to make it consistent with our existing conveyance authorities and standard BLM practices.

The 80 acres proposed for conveyance under H.R. 1311 are part of a larger parcel of land totaling 320 acres that was patented to the City in 1963 under the Recreation and Public Purposes Act (R&PP). The Federal government retains a reversionary interest in these lands if they are not used for the specific purposes for which they were transferred. A significant portion of this parcel of land was developed as the Angel Park Golf Course, however, the 80 acres proposed for conveyance under this bill remain undeveloped.

H.R. 1311 provides that the City may convey without consideration portions of these lands to the Nevada Cancer Institute for the development of a new treatment facility and to the Las Vegas Valley Water District for the development of the pumping facility. The United States would retain a reversionary interest only for the portions the City conveys.

The bill also provides that if the City conveys portions of the site for the other purposes specified in section 3(a) of the bill that it must receive not less than fair market value and that the revenues received from the sales of these lands be distributed according to the formula outlined in Section 4(e)(1) of the Southern Nevada Public Land Management Act (SNPLMA), which allows for 85 percent of the proceeds from the land sales to be deposited in the special account established under SNPLMA; 10 percent paid directly to the Southern Nevada Water Authority; and 5 percent paid directly to the State of Nevada for use in the state’s general education program. It is unclear whether or not the development of an adjacent park and the flood control project would involve the City selling the land.

While BLM is generally supportive of the intentions of H.R. 1311, we believe that the bill should be modified to ensure that the conveyances outlined in Section 3(a) guarantee a fair return to the public and are consistent with existing conveyance authorities. Where

the conveyances are for public purposes, they should be done consistent with the R&PP Act. As you know, the R&PP Act provides for conveyances at less than fair market value in certain circumstances. For example, the provisions in the R&PP Act provide for a 50 percent reduction in value of conveyances to non-profit entities, such as the Nevada Cancer Institute. However, the Administration recognizes that there may, indeed, be circumstances in which the public benefits of a proposed transfer outweigh financial considerations.

For the portions of land that are intended to be used for the development of commercial projects, we recommend that H.R. 1311 be amended to direct the BLM to sell the identified lands at auction or through a modified competitive sale and consistent with SNPLMA. In contrast, the bill, as drafted, would require that the Secretary convey the property to the City of Las Vegas, which, in turn, could convey it for “not less than fair market value.” Such an amendment would eliminate the unnecessary step of conveying the land to the City, would ensure a fair return to the public, and would be consistent with standard BLM practices.

It is also possible that the specified uses identified in Section 3(a), such as the flood control project and the water pumping facility, can be administratively accomplished through the granting of rights-of-ways. The BLM would be happy to work with the City, the Flood Control District, and others in this effort.

We look forward to working with Congresswoman Berkley and the Subcommittee to address the issues we have raised. Thank you for the opportunity to testify on H.R. 1311. I will be happy to answer any questions.

**Statement of
Michael Nedd
Assistant Director for Mineral, Realty & Resource Protection
Bureau of Land Management
House Natural Resources Committee
Subcommittee on National Parks, Forests and Public Lands
H.R. 1922, Jupiter Inlet Lighthouse Outstanding Natural Area Act
October 23, 2007**

Thank you for inviting me to testify on H.R. 1922, the Jupiter Inlet Lighthouse Outstanding Natural Area Act. The Act would designate the 126 acres, including Jupiter Inlet Lighthouse and the surrounding area, as an Outstanding Natural Area (ONA) within the Bureau of Land Management's (BLM) National Landscape Conservation System (NLCS). The Department supports H.R. 1922.

Background

The 126-acre site proposed for designation as the Jupiter Inlet Lighthouse Outstanding Natural Area is an oasis of green in highly urbanized Palm Beach County, Florida and straddles the borders of the Village of Tequesta and the Town of Jupiter. The lighthouse, which stands 156 feet above the surrounding coastline, is the oldest existing structure in Palm Beach County, dating from 1860. The lighthouse continues as an active United States Coast Guard aid to maritime navigation. The Loxahatchee River Historical Society manages portions of the site through a license and conducts popular tours of the lighthouse. On the remaining southern portion of the tract, the Town of Jupiter manages intensive recreation on an 18-acre public park.

Aside from the natural significance of this site, the dynamic partnerships of the Jupiter Working Group and collaborative relationships make this site quite unique. The management of the 126 acres rests with six separate entities, BLM, U.S. Coast Guard, Palm Beach County, Town of Jupiter, Village of Tequesta, and Loxahatchee River Historical Society. These entities currently work cooperatively through BLM's Jupiter Inlet Coordinated Resource Management Plan (CRMP) and the Jupiter Inlet Working Group (working group) to manage the area as a harmonized unit. For example, Palm Beach County's Department of Environmental Resources Management has partnered directly with BLM on habitat improvements, providing matching funds and labor for virtually all habitat-related projects. One activity was the restoration of significant scrub and wetland communities within the area. Emphasis was placed on habitat improvements for the 18 special status species found within the area, including the removal of thousands of exotic trees and shrubs along with replanting of native vegetation. This work has significantly improved the habitat for scrub jays, gopher tortoises and federally endangered plant species. The working group combined resources to build an award-winning tidal lagoon and wetland connected to the Indian River Lagoon, which is one of the most diverse estuaries in the country. Among the many tools used to improve the habitat are successful prescribed burns, which reduced fuel loads on this urban tract.

The community involvement at Jupiter Inlet Lighthouse goes beyond the governmental agencies. For example, the Loxahatchee River Historical Society actively manages the Jupiter Inlet Lighthouse and grounds, and provides interpretive tours to tens of thousands of visitors each

year. They have procured grants and worked with the Town of Jupiter to complete nearly one million dollars in restoration of the Jupiter Inlet Lighthouse, as well as complete the renovation of a WWII vintage building that now houses the museum. Additionally, the Jupiter High School Environmental Resources and Field Studies Academy has donated thousands of hours of hands-on restoration work within the proposed ONA.

H.R. 1922

H.R. 1922 seeks to build on the many successful partnerships already in place by designating the 126-acre site as the Jupiter Inlet Lighthouse Outstanding Natural Area within the BLM's NLCS. The bill follows in the footsteps of the Yaquina Head Outstanding Natural Area along the Oregon coast established by Congress in 1980. In order to safeguard the buildings and public lands surrounding the Jupiter Inlet Lighthouse, the bill provides protections for the area while encouraging and enabling active community support and involvement.

The Department would like the opportunity to work with Congressman Mahoney and the committee on some technical amendments including a correct map reference and other minor issues.

Thank you for the opportunity to testify in support of H.R.1922. I will be happy to answer any questions.

**Statement of
Michael Nedd
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House Committee on Natural Resources
Subcommittee on National Parks, Forests and Public Lands
H.R. 2246, Reno, Nevada Land Conveyance Validations
October 23, 2007**

Thank you for inviting me to testify on H.R. 2246, a bill to validate certain conveyances made by the Union Pacific Railroad Company of lands located in Reno, Nevada. While we do not oppose a legislative solution to the questions surrounding the Federal government's interest in certain lands in downtown Reno, we believe that the goals of H.R. 2246 can be achieved using a simpler approach, and we would like to work with the sponsor and the subcommittee to reach a more appropriate solution.

Background

In the mid-19th century, the Congress sought to encourage the development of the West by providing incentives for transcontinental railroads. Among those incentives was the Act of July 1, 1862, authorizing a transcontinental railroad to be built by the Union Pacific Railroad and Telegraph Company. As part of that authorization, the railroad was granted a right-of-way across public lands. One small piece of that right-of-way is addressed in H.R. 2246.

The status of these rights-of-way has been an ongoing issue before Congress since the late 19th century. In a May 3, 2006, report entitled "Federal Railroad Rights of Way" prepared by the Congressional Research Service; the issue was described as follows:

Although the courts have struggled at times to articulate the *nature and scope* of the interest held by a railroad, the cases are clear that the right of way interest, whether limited fee or easement, is conditioned on the continued use of the right of way for railroad purposes, although that phrase may be broadly construed.

A portion of the Union Pacific rail line authorized under the 1862 Act runs through downtown Reno, Nevada. As an active rail line, there was increasing concern about safety and traffic flow issues. The city of Reno found a creative solution in the form of the ReTrac (Reno Transportation Rail Access Corridor) project, and in late 2005, the first trains began to run on a 2-mile long, 54-foot wide, 33-foot deep, train trench through downtown Reno. Unfortunately, there have been some questions raised about whether the right-of-way given to the railroad under the 1862 Act is affected by the subsurface nature of these two miles of line. In addition, it is unclear whether the Federal government retains a reversionary interest in the corridor. H.R. 2246 attempts to clarify this issue.

H.R. 2246

We believe H.R. 2246 is unnecessarily complex. In addition, the bill asks the Federal government to validate certain conveyances between non-federal parties. We believe that a far simpler approach would be to release any reversionary interest the Federal government may have

to the lands granted to Union Pacific under the Act of 1862 within the subsurface corridor. This would include portions of sections 10, 11 and 12 of T. 19 N., R. 19 E, in Reno Nevada. We would be happy to work with Congressman Heller and the subcommittee on language that would achieve this goal.

Thank you for the opportunity to testify. I would be happy to answer any questions.